

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
Round Lake Area Schools District #116) File No. SLD-222556
Round Lake, Illinois)
)
Federal-State Joint Board on) CC Docket No. 96-45 ✓
Universal Service)
)
Changes to the Board of Directors of the) CC Docket No. 97-21
National Exchange Carrier Association, Inc.)

ORDER

Adopted: September 12, 2002

Released: September 13, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Round Lake Area Schools District #116 (Round Lake), Round Lake, Illinois, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Round Lake seeks review of SLD's refusal to consider Round Lake's appeal to SLD on the grounds that it was untimely filed. For the reasons set forth below, we deny Round Lake's Request for Review.

2. SLD issued a Funding Commitment Decision Letter on July 23, 2001, denying Round Lake's request for discounted services under the schools and libraries universal service support mechanism.² Specifically, SLD denied Round Lake's request for discounts for telecommunications service, Funding Request Number (FRN) 519492. At Round Lake's request, SLD provided another copy of the Funding Commitment Decision Letter on September 12, 2001.³ On September 24, 2001, Round Lake filed an appeal of SLD's July 23, 2001 decision

¹ Letter from Denise Blake, Round Lake Area Schools District #116, to Federal Communications Commission, filed October 15, 2001. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Denise Blake, Round Lake Area Schools District #116, dated July 23, 2001 (Funding Commitment Decision Letter).

³ See Log Information from Schools and Libraries Division, Universal Service Administrative Company. This Log Information shows that SLD sent a re-print of the Funding Commitment Decision Letter to Denise Blake at Round Lake's address on September 12, 2001. SLD's practice is to send a requested re-print with a Re-Order Advisory Sheet. The Re-Order Advisory Sheet advises the applicant that all terms, conditions, dates and/or actions imposed

to deny FRN 519492.⁴ On October 2, 2001, SLD issued an Administrator's Decision on Appeal, indicating that it would not consider Round Lake's appeal because it was received more than 30 days after the Funding Commitment Decision Letter was issued.⁵ Round Lake subsequently filed the instant Request for Review with the Commission.

3. For requests seeking review of decisions issued before August 13, 2001, under section 54.720(b) of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days of the issuance of the decision that the party seeks to have reviewed.⁶ Documents are considered to be filed with the Commission or SLD only upon receipt.⁷ The 30-day deadline contained in section 54.720(b) of the Commission's rules applies to all such requests for review filed by a party affected by a decision issued by the Administrator.⁸ Because Round Lake failed to file an appeal of the July 23, 2001 Funding Commitment Decision Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Round Lake's appeal to SLD as untimely and deny the instant Request for Review.

4. To the extent that Round Lake is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules, we deny that request as well.⁹ The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.¹⁰ Round Lake asserts that it never received the July 23, 2001 Funding Commitment Decision Letter, and had to call SLD to reorder a copy. As a result, the 30-day appeal period passed without the filing of a timely appeal.¹¹

5. We conclude that Round Lake has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from

by the Schools and Libraries Program on applicants or service providers that are dependent upon the specific dates in effect with the original letter remain unchanged.

⁴ Letter from Denise Blake, Round Lake Area Schools District #116, to Schools and Libraries Division, Universal Service Administrative Company, filed September 24, 2001 (Request for Administrator Review).

⁵ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Denise Blake, Round Lake Area Schools District #116, dated October 2, 2001 (Administrator's Decision on Appeal).

⁶ 47 C.F.R. § 54.720(b).

⁷ 47 C.F.R. § 1.7.

⁸ We note that, due to disruptions in the reliability of the mail service, the 30-day appeal period has been extended by an additional 30 days for requests seeking review of decisions issued on or after August 13, 2001. See *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 01-376 (rel. Dec. 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. Dec. 28, 2001 and Jan. 4, 2002). Because the July 23, 2001 Funding Commitment Decision Letter was issued before August 13, 2001, the extended appeal period does not apply to Round Lake.

⁹ See 47 C.F.R. § 54.720(b).

¹⁰ See 47 C.F.R. § 1.3.

¹¹ Request for Review.

the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.¹² In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of submitting its appeals to SLD within the established deadline if the applicant wishes its appeals to be considered on the merits.

6. In light of the thousands of applications that SLD reviews and processes each year, it is also administratively necessary to place on the applicant the responsibility of adhering strictly to its filing deadlines.¹³ In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its appeals to SLD if it wishes its appeals to be considered on the merits. Specifically, an applicant must take responsibility for the action or inaction of those employees, consultants and other representatives to whom it gives responsibility for submitting timely appeals of SLD funding decisions on its behalf.

7. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. Here, there is no evidence in the record before us to support Round Lake's assertion that it did not receive the Funding Commitment Decision Letter.¹⁴ Our review of the record indicates that SLD did issue a Funding Commitment Decision Letter on July 23, 2001. Merely stating that a letter was not received at the address provided to SLD and to which prior correspondence had been successfully mailed is insufficient grounds for granting relief. We therefore find no basis for waiving the appeal filing deadline.

8. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review as well as the request for waiver of the appeal filing period, filed on October 15, 2001, by Round Lake Area Schools District #116, Round Lake, Illinois ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹² *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹³ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. rel. Nov. 24, 2000), para. 8.

¹⁴ See *Request for Review by Whitehall City School District*, Docket Nos. 96-45 and 97-21, Order, DA 00-1892 (rel. August 18, 2000); *Juan Galiano*, Memorandum Opinion and Order, 5 FCC Rcd 6442, 6443 (1990) ("[I]f the Commission were to entertain and accept unsupported arguments that letters mailed in Commission proceedings were not delivered... procedural havoc and abuse would result.").